

NEW JERSEY STATE DEPARTMENT OF ENVIRONMENTAL PROTECTION
NEW JERSEY ADMINISTRATIVE CODE
TITLE 7, CHAPTER 27
SUBCHAPTER 25

CONTROL AND PROHIBITION OF AIR POLLUTION BY VEHICULAR FUELS

Regulatory History

Filed: January 27, 1989
Effective: February 21, 1989
See: 20 N.J.R. 1631(a), 21 N.J.R. 483(a)

Revision Effective: September 3, 1991
Revision Operative: November 2, 1991
See: 23 N.J.R. 45(b), 23 N.J.R. 2656(a)

Revision Effective: March 1992
Revision Operative: March 28, 1992
See: 23 N.J.R. 1858(b), 24 N.J.R. 792(a)

Revision Effective: October 5, 1992
Revision Operative: November 1, 1992
See: 24 N.J.R. 2386(a), 24 N.J.R. 3539(a)

Revision Effective: February 22, 1994
Revision Operative: March 14, 1994
See: 25 N.J.R. 4039(a), 26 N.J.R. 1148(a)

Revision Effective: June 20, 1994
Revision Operative: July 26, 1994
See: 25 N.J.R. 3339(a), 26 N.J.R. 2600(a)

Revision Effective: September 19, 1994
Revision Operative: October 24, 1994
See: 26 N.J.R. 1048(a), 26 N.J.R. 3835(a)

Revision Effective: February 8, 1995
Revision Operative: February 8, 1995
See: 27 N.J.R. 787(a)

Revision Effective: April 7, 1995
Revision Operative: June 5, 1995
See: 27 N.J.R. 1479(a), 27 N.J.R. 1794(b)

Revision Effective: October 27, 1995
Revision Operative: October 27, 1995
See: 27 N.J.R. 4731(a), 28 N.J.R. 851(b)

Revision Effective: August 17, 1998
Revision Operative: September 9, 1999
See: 30 N.J.R. 3025(b), 31 N.J.R. 3087(b)

Correction Filed: February 4, 1999
Correction Effective: March 1, 1999
See:

Revision Adopted: October 30, 2008
Revision Filed: November 5, 2008
Revision Effective: December 1, 2008
Revision Operative: December 29, 2008
See: 39 N.J.R. 4492(a), 40 N.J.R. 6769(a)

Administrative Change: September 6, 2011
See: 43 N.J.R. 2328(a)

Table of Contents

7:27-25.1 Definitions.....	2
7:27-25.2 Scope and applicability	5
7:27-25.2 Scope and applicability	5
7:27-25.3 General provisions.....	5
7:27-25.4 Recordkeeping and compliance determinations	6
7:27-25.5 Inspections	7
7:27-25.6 Petition for rulemaking in the case of imminent supply shortage	7
7:27-25.7 Exemptions	7
7:27-25.8 Owner and operator responsibility	9
7:27-25.9 Service fees	9
7:27-25.10 (Reserved).....	9
7:27-25.11 (Reserved).....	9

7:27-25.1 Definitions

The following words and terms, when used in this subchapter, have the following meanings unless the context clearly indicates otherwise:

"ASTM" means the American Society for Testing and Materials.

"Blender" means any person who carries out a blending process.

"Blending process" means the combination of physical and chemical operations in which components including, but not limited to, gasoline, gasoline blendstocks, and other chemical components are combined to create a finished gasoline or gasoline blendstock.

"Carbon monoxide (CO)" means a gas having a molecular composition of one carbon atom and one oxygen atom.

"Control area" means a geographic area within which gasoline to be used, sold, or dispensed as vehicular fuel in New Jersey is subject to the applicable standards set forth at N.J.A.C. 7:27-25.3 during the specified control period.

"Control period" means the applicable period each year during which gasoline within a control area is subject to the RVP standards set forth at N.J.A.C. 7:27-25.3.

"Crude oil" means a petroleum liquid removed from the earth and not previously used including, but not limited to, partially refined oil.

"Department" means the New Jersey Department of Environmental Protection.

"Distributor" means any person who transports or stores or causes the transportation or storage of gasoline at any point between any gasoline refinery or importer's facility and any retail outlet or wholesale purchaser-consumer's facility.

"EPA" means the United States Environmental Protection Agency.

"Facility" means the combination of all structures, buildings, equipment, storage tanks, source operations and other operations located on one or more contiguous or adjacent properties owned or operated by the same person.

"Gasoline" means any petroleum distillate or petroleum distillate/oxygenate blend having a Reid vapor pressure of four pounds per square inch (207 millimeters of mercury) absolute or greater, and commonly or commercially known or sold as gasoline.

"Importer" means a person who imports gasoline from a foreign country into the United States.

"Motor vehicle" means all vehicles propelled by an internal combustion engine, excepting motorized bicycles and such vehicles as run only upon rails or tracks.

"Nonconforming gasoline" means any gasoline with an RVP content that does not satisfy the standards set forth in N.J.A.C. 7:27-25.3 during the applicable control period.

"Person" means any individual or entity and includes, without limitation, corporations, companies, associations, societies, firms, partnerships and joint stock companies, as well as individuals, and shall also include all political subdivisions of the State or any agencies or instrumentalities thereof.

"Petroleum distillate" means any mixture of volatile organic compounds produced by a refining process including, but not limited to, naphthas, aviation gasoline, motor vehicle gasoline, kerosene, diesel oil, domestic fuel oil, and petroleum products.

"Product development" means investigations directed toward the establishment of methods of manufacture or of specific designs of salable substances, devices, or procedures, based on previously discovered facts, scientific principles or substances.

"Refiner" means any person who owns, leases, operates, controls, or supervises a refinery.

"Refinery" means a facility which carries out refining processes.

"Refining process" means the combination of physical and chemical operations including, but not limited to, distillation, cracking, and reformulation, performed on crude oil in order to produce petroleum products, including gasoline.

"Reid vapor pressure" (RVP) means the absolute vapor pressure of a petroleum product in pounds per square inch (or kilopascals) at 100 degrees Fahrenheit (37.8 degrees Celsius).

"Research" means investigation directed toward the discovery of facts, scientific principles, reactions, or substances.

"Retail outlet" means any establishment at which gasoline is provided, sold, or offered for sale directly for use in motor vehicles.

"Retailer" means any person who owns, leases, operates, controls, or supervises a retail outlet.

"RVP control area" means the entire geographic area within the State of New Jersey.

"RVP control period" means the period from May 1 through and including September 15 of each year during which the RVP standard set forth at N.J.A.C. 7:27-25.3 is applicable to gasoline to be used in New Jersey as vehicular fuel.

"Standard conditions" means 70 degrees Fahrenheit (21.1 degrees Celsius) and one atmosphere pressure (14.7 pounds per square inch absolute or 760.0 millimeters of mercury).

"State" means the State of New Jersey.

"Trial use" means use of a product in an experiment or series of experiments by the manufacturer or importer of that product.

"Vapor" means the gaseous form of substances which, under standard conditions, is in the solid or liquid state and which can be changed to these states by either increasing the pressure or decreasing the temperature.

"Vapor pressure" means the pressure of the vapor phase of a substance, or the sum of the partial pressures of the vapor phases of individual substances in a mixture of substances, when in equilibrium with the non-vapor phase of the substance or substances.

"Volatile organic compound" or "VOC" means a volatile organic compound as that term is defined by the EPA at 40 CFR 51.100(s), as supplemented or amended, which is incorporated by reference herein.

"Wholesale purchaser-consumer" means any person who is an ultimate consumer of gasoline, purchases or obtains gasoline from a supplier for use in motor vehicles, and receives delivery of the gasoline into a storage tank which has a maximum capacity of at least 550 gallons and is substantially under the control of that person.

7:27-25.2 Scope and applicability

(a) This subchapter prescribes the rules of the Department for the control and prohibition of air pollution by vehicular fuels. This subchapter governs the standards for fuels used as motor vehicle fuels and provided for use as motor vehicle fuels in the State and the methods to be followed by refiners, importers, blenders, distributors, wholesale purchaser-consumers and retailers to assure these standards are met.

(b) Any refiner, importer, blender, distributor, wholesale purchaser-consumer or retailer of gasoline for use as motor vehicle fuel in the State is subject to the provisions of this subchapter.

7:27-25.3 General provisions

(a) Except as provided for use in (b) and (h) below, no refiner, importer, blender, distributor, wholesale purchaser-consumer, or retailer shall provide, store, offer for sale, sell, transport, import, or exchange in trade for use in New Jersey during the RVP control period each year, starting in 1989, gasoline having a RVP greater than 9.0 pounds per square inch.

(b) The following compliance schedule shall be in effect in 1989 only; after 1989, the compliance schedule set out in (a) above shall be in effect:

1. No refiner or importer shall provide, store, offer for sale, sell, transport, import or exchange in trade for use in New Jersey during the period May 1 through September 15, 1989, gasoline having a Reid vapor pressure greater than 9.0 pounds per square inch.
2. No blender or distributor shall provide, store, offer for sale, sell, transport, import or exchange in trade for use in New Jersey during the period June 1 through September 15 of 1989, gasoline having a Reid vapor pressure greater than 9.0 pounds per square inch.
3. No wholesale purchaser-consumer or retailer shall provide, store, offer for sale, sell, transport, import or exchange in trade for use in New Jersey during the period July 1 through September 15 of 1989, gasoline having a Reid vapor pressure greater than 9.0 pounds per square inch.

(c) Wholesale purchaser-consumers and retailers shall be exempt from the RVP standard established in (a) above during the month of May.

7:27-25.4 Recordkeeping and compliance determinations

- (a) Each refiner, importer, blender or distributor shall:
1. During any applicable control period established pursuant to N.J.A.C. 7:27-25.3, test all gasoline prior to its release from a refinery, import facility, blending facility or distribution facility for use in a control area within the State to determine its RVP, and for each test prepare a test report which documents the RVP of the gasoline;
 2. Certify to the distributor, retailer or wholesale purchaser-consumer to whom gasoline is delivered that the gasoline has been tested in accordance with this section; that, during the RVP control period, the gasoline has an RVP of 9.0 pounds per square inch or less; and that the gasoline is in compliance with all applicable State and Federal regulations, by providing:
 - i. A copy of the test report prepared pursuant to (a)1 above with the certification contained therein; or
 - ii. The certification in writing on the invoice, bill of lading, or other transfer document; and
 3. Maintain records on all gasoline leaving the refinery, import facility, blending facility, or distribution facility, which document the RVP of the gasoline; shipment quantity; shipment date; and other such information as the Department may prescribe. Documentation may include, but is not limited to, bills of lading, invoice delivery tickets, and loading tickets.
- (b) Each retailer or wholesale purchaser-consumer shall maintain records on each delivery of gasoline, including the RVP of the gasoline; delivery quantity; date of delivery; and other such information as the Department may require. Documentation may include, but is not limited to, bills of lading and other transfer documents, invoice delivery tickets and loading tickets, and invoices and test reports certified pursuant to (a)2 above.
- (c) Any sampling of gasoline required pursuant to the provisions of this subchapter for determining the RVP of gasoline shall be conducted in accordance with the following methods:
1. For manual sampling: ASTM D4057; or
 2. For continuous sampling and nozzle sampling: California Administrative Code Title 14, R.2261(R)(3) and (k)(4)(1987).
- (d) All testing for RVP required pursuant to the provisions of this subchapter shall be conducted using one of the following methods:
1. "Method 1 - Dry RVP Measurement Method" promulgated at 40 CFR 80, Appendix E;
 2. "Method 2 - Herzog Semi-Automatic Method" promulgated at 40 CFR 80, Appendix E;
 3. "Method 3 - Grabner Method" promulgated at 40 CFR 80, Appendix E; or
 4. Any other equivalent test method approved in advance in writing by the Department and EPA.
- (e) All records and documentation required to be made or maintained in accordance with this section, including any calculations performed, shall be maintained by each refiner, importer, blender, distributor, retailer, and wholesale purchaser-consumer, as applicable, for not less than three years from the date the record is made. Records made within the past year (the previous 12 months) shall, upon request of the Department or its authorized representatives, be immediately available for review. Records made in previous years shall, upon the request of the Department or its authorized representatives, be available for review within five business days.

7:27-25.5 Inspections

(a) The Department and its representatives shall have the right to enter and inspect any site, building or equipment, or any portion thereof, at any time, in order to ascertain compliance or non-compliance with the Air Pollution Control Act, N.J.S.A. 26:2C, this chapter, any permit, any exemption, or any order or agreement issued or entered into pursuant thereto. Such right shall include, but not be limited to the right to test or sample any materials at the facility, to sketch or photograph any portion of the site, building or equipment, to copy or photograph any document or records necessary to determine such compliance or non-compliance, and to interview any employees or representatives of the owner, operator or registrant. Such right shall be absolute and shall not be conditioned upon any action by the Department, except the presentation of appropriate credentials as requested and compliance with appropriate standard safety procedures.

(b) Owners or operators, and any employees or representatives thereof, shall assist and shall not hinder or delay the Department and its representatives in the performance of all aspects of any inspection. Such assistance shall include making available sampling equipment necessary to conduct sampling at the facility and providing sampling facilities for the Department to determine the nature and quantity of gasoline being provided, stored, transported, exchanged in trade, sold, or offered for sale at that refinery, import facility, blending facility, retail, wholesale purchaser-consumer or distribution outlet. During such testing by the Department, the equipment and all components connected, attached to, or serving the equipment shall be used and operated under normal routine operating conditions or under such other conditions as may be requested by the Department. The facilities may be either permanent or temporary, at the discretion of the person responsible for their provision, and shall conform to all applicable laws and regulations concerning safe construction and safe practice.

7:27-25.6 Petition for rulemaking in the case of imminent supply shortage

If at any time a refiner, importer, blender, distributor, wholesale purchaser-consumer or retailer comes to the conclusion that the requirement of supplying 9.0 psi RVP gasoline during the control period May 1 through September 15 will cause an imminent shortage of gasoline such that supply cannot meet demand, such party shall file a petition for rulemaking with the Department pursuant to N.J.S.A. 52:14B-4(f) and N.J.A.C. 1:30-3.6, requesting that the Department modify the 9.0 psi RVP standard such that a shortage in gasoline supply will be averted. This petition may request that the Department pursue emergency rulemaking pursuant to N.J.S.A. 54:14B-4.4 and N.J.A.C. 1:30-4.5.

7:27-25.7 Exemptions

(a) The Department may, at its discretion, issue an exemption allowing any person to store, transfer, or use non-conforming gasoline, provided the gasoline is used solely for the purpose of research, product development, and trial use.

(b) Application for an exemption shall be made on forms obtained from the Department. Any person may request application forms from:

Department of Environmental Protection
Compliance and Enforcement
Division of Air and Hazardous Materials Enforcement
401 East State Street, 4th Floor
Mail Code 401-04B

- (c) The Department may require an applicant for an exemption to submit such details about the intended use of the non-conforming gasoline as it considers necessary to evaluate the potential effect of such use on public health, welfare and the environment. Such information shall include, but is not limited to:
1. Specification of how the non-conforming gasoline is to be used, and the purpose of this use;
 2. Explanation of why the purpose could not be accomplished through use of gasoline whose volatility conforms with the N.J.A.C. 7:27-25.3 standards;
 3. For any year, the maximum number of gallons and maximum RVP of non-conforming gasoline:
 - i. To be used from May 1 through September 15; and
 - ii. To be stored at the facility during the May 1 through September 15 period;
 4. A calculation of the maximum potential additional VOC emissions that could occur during the May 1 through September 15 period in any year due to the storage, transfer, and use of non-conforming gasoline; and
 5. A facility diagram specifying the tanks in which non-conforming gasoline will be stored.
- (d) The Department may require, as a condition of approval of an exemption, the use of control apparatus.
- (e) No applicant may commence storing, transferring, and using non-conforming gasoline prior to the issuance by the Department of a written approval of an exemption.
- (f) Any exemption issued by the Department pursuant to this section shall be valid for a period of no longer than three years from the date of approval.
- (g) Any person holding an exemption issued by the Department pursuant to this section shall make said exemption readily available for inspection on the operating premises.
- (h) Any person to whom the Department has issued an exemption pursuant to this section shall:
1. Record each day between May 1 and September 15 the quantity, in gallons, of non-conforming gasoline which is:
 - i. Stored at the facility; and
 - ii. Consumed that day in research, product development, or trial use;
 2. Maintain the records kept pursuant to (h)1 above at the facility for a period no less than three years;
 3. Make the records kept pursuant to (h)1 above available, upon request, for review by the Department; and
 4. Upon the request of the Department, submit to the Department all or any part of the information contained in the records kept pursuant to (h)1 above.
- (i) The Department shall deny an application for an exemption if:
1. The Department determines that such storage, transfer, or use of gasoline may result in the presence in the outdoor atmosphere of any air contaminant in such quantity and duration which is or tends to be injurious to human health or welfare, animal or plant life or property, or may unreasonably interfere with the enjoyment of life or property. This does not include an air contaminant which occurs only in areas over which the person has exclusive use or occupancy;
 2. The applicant fails to demonstrate, to the satisfaction of the Department, that the proposed storage, transfer, and use of non-conforming gasoline are essential to the intended research, development, or trial use set forth in the application.

(j) The Department may deny an application for an exemption if the applicant fails to provide all information requested by the Department within 30 days after the request is received by the applicant, or within a longer period if such a response period is approved in writing by the Department.

(k) The Department may revoke any approval of any exemption granted pursuant to this section if the Department determines that the person to whom the Department has issued the exemption has:

1. Stored, transferred, or used non-conforming gasoline for any purpose other than that described in the application for an exemption and approved by the Department;
2. Failed to allow lawful entry by authorized representatives of the Department to the facility for which the exemption is issued;
3. Failed to pay any penalty assessed pursuant to a final order issued by the Department; or
4. Failed to pay any outstanding service fees, charged in accordance with the schedules contained in N.J.A.C. 7:27-25.8 within 60 days after receipt of a fee invoice.

(l) If the Department seeks to revoke an exemption during the term of that exemption, the Department shall provide the opportunity to request a hearing pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

7:27-25.8 Owner and operator responsibility

The owner and operator of any facility subject to this subchapter shall be responsible for ensuring compliance with all requirements of this subchapter. Failure to comply with any provision of this subchapter may subject the owner and operator to civil penalties in accordance with N.J.A.C. 7:27A-3 and criminal penalties pursuant to N.J.S.A. 26:2C-19(f)1 and 2. If there is more than one owner or operator of a facility, all owners and operators are jointly and severally liable for such civil and criminal penalties.

7:27-25.9 Service fees

(a) Any person who applies for an exemption pursuant to N.J.A.C. 7:27-25.7 shall submit with the application, as an integral part thereof, a non-refundable service fee of \$500.00.

(b) Any person to whom the Department has issued an exemption pursuant to N.J.A.C. 7:27-25.7 shall remit to the Department within 60 days after receipt of an invoice, an annual compliance inspection fee of \$500.00 for each year that the exemption remains in effect.

7:27-25.10 (Reserved)

7:27-25.11 (Reserved)